

THE HON'BLE MS JUSTICE G.ROHINI

W.P.No.13855 of 2006

Dated: 17.08.2006

Between

1.A.Bala Subbarayudu and another.

.....Petitioner

and

1.The Prohibition and Excise Superintendent
Govt of A.P.Kadapa, Kadapa District
and others.

....Respondents

THE HON'BLE MS JUSTICE G.ROHINI

W.P.No.13855 of 2006

ORDER:

Heard both sides.

In pursuance of a notice of auction dated 27.05.2006 issued under the provisions of the A.P. Excise (Lease of right of selling by shop and conditions of Licence) Rules, 2005, the petitioners herein were granted licences in respect of shop No.2 and 3 of Aravapalli village of Nandalur Mandal, Kadapa District. Similarly, the 4th respondent herein was granted a licence in respect of Shop No.2 of Nandalur village.

This writ petition is filed alleging that pursuant to the licence granted in his favour, the 4th respondent has selected a premises bearing D.No.2/15 in Aravapalli village, instead of Nandalur in respect of which he was granted licence.

It is contended that the 4th respondent cannot be permitted to locate the licenced premises at D.No.2/15 of Aravapalli village since he was granted a licence in respect of shop notified in Nandalur village.

In response to the Rule Nisi ordered, counter affidavit has been filed by the Prohibition & Excise Inspector, Siddavatam, Kadapa District, on behalf of the respondent Nos.1 to 3, stating that the 4th respondent has selected the premises bearing D.No.2/15 which is situated in Nandalur village and therefore the

licence was granted in his favour in accordance with the rules. It is further stated that the Panchayat Secretary of Nagireddipalli village has also certified to that aspect and the Station House Officer after making necessary enquiries filed a report stating that the area is called as Nandalur Bus stand and it is a business center for people of Nagireddipalli and Nandalur.

A perusal of the counter affidavit goes to show that the objections raised by the petitioners were enquired into by the Prohibition and Excise Inspector, Siddavatam and a report was submitted stating that the said objections were untenable.

A separate counter affidavit has been filed by the 4th respondent on the same lines reiterating that the premises bearing No.2/15 is situated within the limits of Nandalur village.

However, the petitioners disputed the said version and filed a reply affidavit stating that the premises in question forms part of Aravapalli village and the 4th respondent has been carrying on the business at Aravapalli, resulting in huge loss to the petitioners.

Such a disputed question of fact with regard to the location of the premises bearing D.No.2/15 cannot be gone into by this Court while exercising jurisdiction under Article 226 of the Constitution of India and no finding as such can be recorded. Hence the writ of Mandamus as prayed for cannot be granted.

If the petitioners are still aggrieved, it is open to them to work out the appropriate remedies as available under law for redressal of their grievance.

Writ petition is disposed of accordingly. No costs.

rkk

17.08.2006